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10/758,022	01/16/2004	Shoichi Okamura	SUT-0232	6241

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EXAMINER

HO, ALLEN C

ART UNIT	PAPER NUMBER
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2882

MAIL DATE	DELIVERY MODE
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09/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

TH

Office Action Summary

Application No.

10/758,022

Applicant(s)

OKAMURA ET AL.

Examiner

Allen C. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

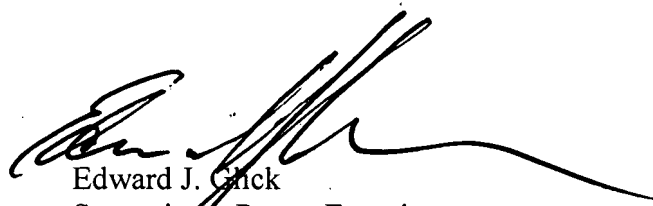
1. In view of the appeal brief filed on 15 May 2007, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



Edward J. Chack
Supervisory Patent Examiner
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Claim Objections

2. Claims 1-5 are objected to because of the following informalities:

Claim 1 recites the limitation "the radiation detecting means" in lines 12 and 18. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh (U. S. Patent No. 5,249,123) in view of Roos *et al.* (U. S. Patent No. 6,041,097).

With regard to claim 1, Hsieh disclosed a radiographic apparatus comprising: radiation emitting means (13) for emitting radiation toward an object under examination; radiation detection means (14) for detecting radiation after the radiation is emitted toward the object under examination; signal sampling means (31) for taking radiation detection signals from the radiation detection means at fixed sampling time intervals (column 2, lines 53-56); and time lag removing means (26) for determining lag-free radiation detection signals (x_k) by subtracting a radiation detection signal ($\sum_{n=1}^N \beta_n e^{-\Delta t / \tau_n} S_{nk}$) for a lag-behind part from the respective radiation detection signals ($y(k\Delta t)$) by a recursive computation (Eq. 5), on an assumption that, of the radiation

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detection signals taken by the signal sampling means at the fixed sampling time intervals, the radiation detection signal for a lag-behind part left unread from the radiation detection means within the fixed sampling time intervals, to be read at a next reading time and added to a radiation detection signal actually read at the next reading time, is due to an impulse response formed of one exponential function or a plurality of exponential functions with different attenuation time constants (column 1, lines 60 - column 2, line 2); the radiographic images being derived from the lag-free radiation detection signals obtained by the time lag removing means.

However, Hsieh failed to disclose a flat panel x-ray detector.

Roos *et al.* disclosed a CT system comprising a flat panel x-ray detector. Roos *et al.* taught that a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, a flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector as the radiation detecting means, since a person would be motivated to achieve the above mentioned advantages.

With regard to claims 3-5, these claims fail to set forth additional structural limitations.

Accordingly, they are rejected with claim 1. MPEP § 2114.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection

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is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1 and 2 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11 and 15 of U.S. Patent No. 7,006,599 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 2 are anticipated by claims 11 and 15 of U.S. Patent No. 7,006,599 B2.

With regard to claim 1, claim 11 of U.S. Patent No. 7,006,599 B2 claims a radiographic apparatus that comprises: a flat panel x-ray detector having numerous radiation detecting elements formed of a semiconductor (a semiconductor film) and arranged longitudinally and transversely on a radiation detecting surface (claim 11); signal sampling means (claim 1); and time lag removing means for determining lag-free radiation detection signals by subtracting a radiation detection signal for a lag-behind part from the respective radiation detection signals by a recursive computation (claim 1).

With regard to claim 2, claims 11 and 15 of U.S. Patent No. 7,006,599 B2 claim a radiographic apparatus as defined in claim 1, wherein the time lag removing means is arranged to

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perform the recursive computation for removing the lag-behind part from each of the radiation detection signals, based on equations A-C (claim 15).

7. Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2 and 5 of copending Application No. 10/887,920 in view of Roos *et al.* (U. S. Patent No. 6,041,097).

With regard to claim 1, claim 5 of copending Application No. 10/887,920 claims a radiographic apparatus that comprises: a flat panel x-ray detector having numerous radiation detecting elements arranged longitudinally and transversely on a radiation detecting surface (claim 5); signal sampling means (claim 1); and time lag removing means for determining lag-free radiation detection signals by subtracting a radiation detection signal for a lag-behind part from the respective radiation detection signals by a recursive computation (claim 1).

However, claim 5 of copending Application No. 10/887,920 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

With regard to claim 2, claim 2 of copending Application No. 10/887,920 claims a radiographic apparatus as defined in claim 1, wherein the time lag means is arranged to perform the recursive computation for removing the lag-behind part from each of the radiation detection signals, based on equations A-C.

However, claim 2 of copending Application No. 10/887,920 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

This is a provisional obviousness-type double patenting rejection.

8. Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5 and 6 of copending Application No. 10/901,212 in view of Roos *et al.* (U. S. Patent No. 6,041,097).

With regard to claim 1, claim 6 of copending Application No. 10/901,212 claims a radiographic apparatus that comprises: a flat panel x-ray detector having numerous radiation detecting elements arranged longitudinally and transversely on a radiation detecting surface (claim 6); signal sampling means (claim 1); and time lag removing means for determining lag-

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free radiation detection signals by subtracting a radiation detection signal for a lag-behind part from the respective radiation detection signals by a recursive computation (claim 1).

However, claim 6 of copending Application No. 10/901,212 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

With regard to claim 2, claim 5 of copending Application No. 10/901,212 claims a radiographic apparatus as defined in claim 1, wherein the time lag means is arranged to perform the recursive computation for removing the lag-behind part from each of the radiation detection signals, based on equations A-C.

However, claim 5 of copending Application No. 10/901,212 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times

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and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

This is a provisional obviousness-type double patenting rejection.

9. Claims 1 and 2 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3 and 8 of U.S. Patent No. 7,073,941 B2 in view of *Roos et al.* (U. S. Patent No. 6,041,097).

With regard to claim 1, claim 8 of U.S. Patent No. 7,073,941 B2 claims a radiographic apparatus that comprises: a flat panel x-ray detector having numerous radiation detecting elements arranged longitudinally and transversely on a radiation detecting surface (claim 8); signal sampling means (claim 1); and time lag removing means for determining lag-free radiation detection signals by subtracting a radiation detection signal for a lag-behind part from the respective radiation detection signals by a recursive computation (claim 1).

However, claim 8 of U.S. Patent No. 7,073,941 B2 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos et al. disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). *Roos et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

With regard to claim 2, claim 3 of U.S. Patent No. 7,073,941 B2 claims a radiographic apparatus as defined in claim 1, wherein the time lag means is arranged to perform the recursive computation for removing the lag-behind part from each of the radiation detection signals, based on equations A-C.

However, claim 3 of U.S. Patent No. 7,073,941 B2 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

10. Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5 and 7 of copending Application No. 11/061,783 in view of Roos *et al.* (U. S. Patent No. 6,041,097).

With regard to claim 1, claim 7 of copending Application No. 11/061,783 claims a radiographic apparatus that comprises: a flat panel x-ray detector having numerous radiation

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detecting elements arranged longitudinally and transversely on a radiation detecting surface (claim 7); signal sampling means (claim 1); and time lag removing means for determining lag-free radiation detection signals by subtracting a radiation detection signal for a lag-behind part from the respective radiation detection signals by a recursive computation (claim 1).

However, claim 7 of copending Application No. 11/061,783 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

With regard to claim 2, claim 5 of copending Application No. 11/061,783 claims a radiographic apparatus as defined in claim 1, wherein the time lag means is arranged to perform the recursive computation for removing the lag-behind part from each of the radiation detection signals, based on equations A-C.

However, claim 5 of copending Application No. 11/061,783 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image

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data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

This is a provisional obviousness-type double patenting rejection.

11. Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2 and 6 of copending Application No. 11/654,506 in view of Roos *et al.* (U. S. Patent No. 6,041,097).

With regard to claim 1, claim 6 of copending Application No. 11/654,506 claims a radiographic apparatus that comprises: a flat panel x-ray detector having numerous radiation detecting elements arranged longitudinally and transversely on a radiation detecting surface (claim 6); signal sampling means (claim 1); and time lag removing means for determining lag-free radiation detection signals by subtracting a radiation detection signal for a lag-behind part from the respective radiation detection signals by a recursive computation (claim 1).

However, claim 6 of copending Application No. 11/654,506 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times

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and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

With regard to claim 2, claim 2 of copending Application No. 11/654,506 claims a radiographic apparatus as defined in claim 1, wherein the time lag means is arranged to perform the recursive computation for removing the lag-behind part from each of the radiation detection signals, based on equations A-C.

However, claim 2 of copending Application No. 11/654,506 does not claim a flat panel x-ray detector formed of a semiconductor.

Roos *et al.* disclosed a flat panel x-ray detector formed of a semiconductor (column 5, lines 55-63). Roos *et al.* taught that such a flat panel detector would provide a volumetric image data acquisition system which improves x-ray utilization resulting in faster patient scan times and reduced radiation dose (column 2, lines 53-57). In addition, the flat panel x-ray detector has improved spatial resolution due to its fine detector matrix spacings (column 2, lines 58-62).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ an x-ray flat panel detector formed of a semiconductor, since a person would be motivated to achieve the above mentioned advantages.

This is a provisional obviousness-type double patenting rejection.

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Response to Arguments

12. Applicant's arguments filed 15 May 2007 have been fully considered but they are not persuasive.

The applicants argue that the phenomenon "lag" in a flat panel x-ray detector is different from the phenomenon "afterglow" described by Hsieh (U. S. Patent No. 5,249,123). This argument is not persuasive. By applicants' own admission, Hsieh disclosed a solution to solve the "time lag" caused by FPD (flat panel detector) in acquiring computer tomographic images (page 2, last paragraph). Thus, the phrase "time lag" in the claims does not distinguish applicants' radiographic apparatus from the prior art.

In response to applicants' argument that the examiner fails to make clear the obviousness-type double patenting rejection, the obviousness-type rejections now clearly identify the differences, if any, between the claims and the claims of copending applications or U. S. Patents.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Allen C. Ho/
Primary Examiner
Art Unit 2882

28 August 2007